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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,717	12/05/2003	Paul Luchinger	ME-41DIVA	2675

7590 05/11/2004  
Friedrich Kueffner  
Suite 910  
317 Madison Avenue  
New York, NY 10017

EXAMINER
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GIBSON, RANDY W

ART UNIT	PAPER NUMBER
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2841

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/729,717	Applicant(s) LUCHINGER ET AL.	
	Examiner Randy W. Gibson	Art Unit 2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 6-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Priority*

1. The current status of the parent nonprovisional application(s) should be included.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lüechinger (US # 4,676,327). Lüechinger discloses a balance with a handle (21). See column 2, lines 45-52. The functional recitation that the handle serves the purpose of lifting or carrying the balance is not deemed to carry any patentable weight since: (i) the function is not in means plus function format as required by 112, sixth paragraph and therefore does not define any structure; and, (ii) the handle disclosed is conceivably able to allow one to pick up the balance even if it is not optimized for this purpose. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knothe et al (US # 4,664,207) in view of Kroll et al (US # 4,714,121). Knothe et al discloses the claimed invention except for a handle located near the top of the balance for carrying the scale. Attaching a carrying handle onto the housing of a scale to improve its portability is well known as shown by the example of Kroll et al (Col. 3, lines 49-58). Attaching such a carrying handle near the top of the housing of Knothe et al would have been obvious to the ordinary practitioner motivated by the shape of the housing itself (carrying the housing of Knothe et al by the top would allow one to keep the balance more or less level during transport which would help protect the precision weighing mechanism from shock). It would have been obvious to the ordinary practitioner to add a carrying handle to the top of the housing of Knothe et al to aid portability.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knothe et al (US # 4,664,207) in view of Kroll et al (US # 4,714,121) as applied to claims 1-5 & 11 above, and further in view of Strickler et al (US # 5,152,356). The aforementioned

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combination does not mention a clutch mechanism for engaging or disengaging a drive mechanism for at least one slidable wall. However, the general idea of providing an optional motor for opening the sliding doors on the housing of a balance is well known in the art, as is the idea of providing a clutch to allow one to use either automatic or manual opening of the same, as shown by the example of Strickler et al (Col.3, lines 7-29). It would have been obvious to modify the device of Knothe et al to include a clutched drive mechanism for the sliding doors for the convenience of the user.

7. Claims 1-5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flückiger et al (US # 6,566,614) in view of Kroll et al (US # 4,714,121). Flückiger et al discloses the claimed invention except for a handle located near the top of the balance for carrying the scale. Attaching a carrying handle onto the housing of a scale to improve its portability is well known as shown by the example of Kroll et al (Col. 3, lines 49-58). Attaching such a carrying handle near the top of the housing of Flückiger et al would have been obvious to the ordinary practitioner motivated by the shape of the housing itself (carrying the housing of Flückiger et al by the top would allow one to keep the balance more or less level during transport which would help protect the precision weighing mechanism from shock). It would have been obvious to the ordinary practitioner to add a carrying handle to the top of the housing of Flückiger et al to aid portability.

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8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flückiger et al (US # 6,566,614) in view of Kroll et al (US # 4,714,121) as applied to claims 1-5 & 11 above, and further in view of Strickler et al (US # 5,152,356). The aforementioned combination does not mention a clutch mechanism for engaging or disengaging a drive mechanism for at least one slidable wall. However, the general idea of providing an optional motor for opening the sliding doors on the housing of a balance is well known in the art, as is the idea of providing a clutch to allow one to use either automatic or manual opening of the same, as shown by the example of Strickler et al (Col.3, lines 7-29). It would have been obvious to modify the device of Flückiger et al to include a clutched drive mechanism for the sliding doors for the convenience of the user.

### ***Conclusion***

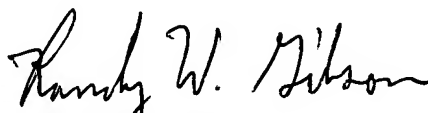
9. Claims 6-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (571) 272-2103. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on (571) 272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Randy W. Gibson  
Primary Examiner  
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